IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No.924 of 2007

Decided on:December 28, 2007.

State of Himachal Pradesh ***…Petitioner.***

VERSUS

Anil & another ***….Respondents.***

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?[1]No

For the Petitioner : Mr.M.L.Chauhan, Addl.A.G.

For the respondents :

Kuldip Singh, Judge (Oral)

The State has filed this petition seeking leave to file appeal against the judgment dated 29.8.2007 passed by learned Judicial Magistrate 1st Class, Theog in case No.25-1 of 2007 acquitting the respondents under Section 186 read with Section 34 I.P.C.

2. The respondents were prosecuted for having committed offence under Section 186 read with Section 34 I.P.C. on the allegations that on 7.12.2006 at Police Station, Theog LC Rachna No.1248 was working on her computer, the respondents in furtherance of their common intention entered the Chamber of MHC Police Station, Theog. They imputed bad reputation to Kumari Reena Roy and when they were asked not to make such allegations and to go out from the office by LC Rachna then respondents obstructed

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Whether the reporters of the local papers may be allowed to see the judgment? Yes

MHC Man Dev and LC Rachna public servants from discharging their public duties. Notice of accusation under Section 186 read with Section 34 I.P.C. was put to the respondents to which they pleaded not guilty and claimed trial. The prosecution examined six witnesses. The statements of respondents were recorded under Section 313 Cr.P.C. The respondents examined two witnesses in defence.

3. PW-1 LC Rachna No.1248 has stated that on 7.12.2006 she was working on computer, Reena came to lodge a report and she was recording her complaint then respondent No.2 came there and levelled allegations against the character of Reena, MHC Man Dev asked her not to behave in that manner, on this the respondent No.2 started arguing with MHC. PW-1 asked her to go out from the office. The respondent No.1, husband of respondent No.2, also came there. In the meantime, another lady Kanta Devi came to lodge a report with respect to quarrel between Reena and Kanta. F.I.R. Nos.192 of 2006 and 193 of 2006 were recorded on the complaints of Reena and Kanta Devi. Due to this reason, PW-1 and MHC Man Dev were obstructed from performing their official duties.

4. PW-2 Sharda Sharma has stated that when LC Rachna asked not to interfere then respondent No.2 did not stop. PW-3 Reena has stated that she went to Police Station, Theog on 7.12.2006 at about 4.45 P.M. and at that time MHC Man Dev and Rachna were sitting in the Police Station. The respondents also came there and they started imputing her bad character. MHC Man Dev and Rachna asked them not to do so. Man Dev was recording her F.I.R. and Rachna was doing her job on computer. Rachna and

Man Dev asked them to go out, they threatened to do away with her life and left the room. PW-6 MHC Man Dev has stated that respondents obstructed them while doing their official duty.

5. The learned trial Magistrate has recorded a finding that in the complaint no actual obstruction has been stated. PW-1 has stated that respondents had obstructed her in the Police Station from discharging her duties whereas PW-6 MHC Man Dev has stated that the respondents illegally pressurized the police and obstructed them from discharging their duties. The prosecution has not proved actual obstruction caused to the police officials. The evidence is of using abusive language by respondents. In fact, evidence has come on record that F.I.Rs No.192 and 193 of 2006 were recorded. The learned trial Magistrate has properly appreciated the material on record and has taken a possible view by returning the finding that prosecution has failed to prove the case under Section 186 read with Section 34 I.P.C. and acquitted the respondents. No case has been made out for grant of leave to file appeal against the impugned judgment. Hence, leave to appeal refused and the petition is rejected.

December 28, 2007 ***(Kuldip Singh), J.***

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